risdiction of equity. The jurisdiction of equity to remove a cloud on title to realty is well recognized, and the maxim that equity acts in personam has no application where the power is conferred by statute (Arndt *v.* Griggs, 1890, 134 U. S. 316, 10 Sup. Ct. 577; Morris *v.* Graham, C. C., 1892, 51 Fed. 53). Equity may, in a similar manner, take jurisdiction to remove a cloud on the title to a chose in action (Ryan *v.* Seaboard, etc., R. R., C. C., 1897, 83 Fed. 889; Lockwood *v.* Brantly, N. Y., 1883, 31 Hun 155), and it is no objection to an order for publication based on such a bill that the complaint asks more relief than can be obtained without personal service (Chesley *v.* Morton, 1896, 9 App. Div. 461, 41 N. Y. Supp. 463). Such a proceeding is one quasi in rem (see Sohege *v.* Singer Mfg. Co., 1907, 73 N. J. Eq., 567, 68 Atl. 64). It is especially to be noted that the courts of at least one jurisdiction have been exceptionally liberal in granting relief to determine the rights of parties under an insurance policy because of its peculiar nature (see Cohen *v.* N. Y., etc., Ins. Co., 1872, 50 N. Y. 610, 624; Langan *v.* Supreme Council, 1903, 174 N. Y. 266, 66 N. E. 932; Hadley *v.* Travelers' Ins. Co., 1910, 68 Misc. 359, 125 N. Y. Supp. 88). It has sometimes been said that the proper remedy for the insurance company where there are adverse claimants is by an action of interpleader (see Bullowa *v.* Provident, etc., Co., 1908, 125 App. Div. 545, 109 N. Y. Supp. 1058; Gleason *v.* Northwestern, etc., Ins. Co., 1911, 203 N. Y. 507, 97 N. E. 35), but in the principal case such remedy could not be available since the distributees of the assignee would not be entitled to recover upon the policy until the death of the complainant. Columbia Law Review, June, 1916.

Criminal Law—Reopening Case During Argument.—In State *v.* Ricker, in the Supreme Court of Errors of Connecticut (March, 1916, 96 Atl. 941), it was held that the action of the trial court in permitting a State's witness, during the arguments, after he had had opportunity to confer with other interested parties, to correct his testimony given on cross-examination, the importance of which did not appear until argument, was proper where the accused was given opportunity for testimony in rebuttal, it appearing that the party requesting the action had been fair and diligent in trying his cause in the regular way. The following is from the opinion:

"The assignments of error chiefly relied on are those which attack the action of the trial court in reopening the cause, during the arguments, to permit the State's witness Houghton to correct his testimony. In criminal as well as in civil cases the court has discretionary power to permit the cause to be reopened after arguments have commenced. The following cases were so reopened to permit proof of the venue, after counsel for the accused had claimed in argument that no such proof had been made: Pond *v.* State (55 Ala. 196); State *v.* Teissedre (30 Kan. 476 2 Pac. 650); Commonwealth *v.* Texter (2

Browne, Pa., 247); Wiggins *v.* State (80 Ga. 468, 5 S. E. 503); State *v.* Martin (89 Me. 117, 35 Atl. 1023).

In North *v.* People (139 Ill. 81, 28 N. E. 966), the closing argument for the accused in a murder trial was stopped and the State allowed to prove an ordinance of the City of Pontiac creating the office of city marshal, which had been held by the deceased. In People *v.* Blake (157 Mich. 533, 122 N. W 113), a trial for murder committed in resisting arrest for burglary, the State, after commencing argument, was allowed to offer as exhibits a collection of incriminating articles which had already been identified but not offered in evidence during the trial. In Commonwealth *v.* Ricketson (5 Metc., Mass., 412, 427), testimony of a nature not disclosed in the report was admitted after the cause had been committed to the jury, and an exception on that ground was dismissed almost as a matter of course. In Jordan *v.* State (22 Fla. 528, 531), further evidence not otherwise specified was admitted after counsel for the prisoner had commenced his argument, and the court said:

'The manner of the submission of testimony to the jury is a matter in the sound discretion of the court, and cannot be complained of unless it was in some way shown to have precluded the defendant from having a fair and impartial trial. This is not shown by the statement that its irregularity consisted only in its submission out of the usual order of its procedure before argument, the prisoner not being deprived of his right to introduce evidence in rebuttal of it nor his counsel from commenting on its effect to the jury.'

In State *v.* Jones (80 Wash. 588, 142 Pac. 35), and in Martin *v.* Commonwealth (145 Ky. 752, 141 S. W. 54), it was held error not to reopen the case after the testimony had been closed in order to permit the accused to offer newly discovered material evidence in rebuttal; and in the latter case it was said:

'The control of a criminal case by reopening it after the evidence is closed rests largely in the wise discretion of the trial court, exercised for the purpose of promoting justice.'

In Jackson *v.* State (118 Ga. 780, 45 S. E. 604), a State's witness was recalled while the argument for the defense was in progress, and permitted to testify as to a fact tending to identify a stolen animal with the remains found in the prisoner's possession. On the other hand, in Looney *v.* People (81 Ill. App. 370), on which the appellant relies, a witness for the State testified to an incriminating conversation and fixed the date of it. The defense then established a complete alibi. The State offered no evidence in rebuttal of the alibi, but after the argument for the accused was completed the case was reopened and the State's witness allowed to rebut the alibi by fixing another date for the alleged conversation. This was held error, on the ground that the State had full opportunity to rebut the alibi at the proper time, and that there was no showing which justi-

fied the subsequent admission of the evidence out of its proper order. In Wood *v.* State (11 Okl. Cr. 176, 144 Pac. 391), and in People *v.* Harper (145 Mich. 402 108 N. W. 689), the State's attorney intentionally kept back a material witness, and it was held error to allow him to be called and to testify to matters in chief after the defense had rested. In Meakim *v.* Anderson (11 Barb. N. Y. 215), and in Charles *v.* State (58 Fla. 17, 50 South. 419), refusals to reopen were upheld.

It thus appears that the discretion has been upheld when exercised solely to promote the ends of justice, on condition that the party in whose favor it is invoked has been fair and diligent in trying his cause in the regular way."

Intoxicating Liquor for Personal Use.—The control of the traffic in intoxicating liquors is simple enough, once a majority vote for the prohibitory law is secured. However, the thoroughgoing prohibitionist is not satisfied with that result, but would lay the heavy hand of law on the man who wishes to import an occasional drink for himself. Up to date success in that direction has not been conspicuous. It was thought that the Webb-Kenyon Law would solve the difficulty. But that act was promptly construed as inapplicable to a shipment of liquors for personal use into a state where possession for such use was not forbidden by law (Adams Express Co. *v.* Kentucky, 238 U. S. 190, Ann. Cas. 1915D, 1167). Under the decision cited and those following it, only a direct prohibition by state law of the drinking of intoxicants will bring a shipment designed for personal use within the scope of the Webb-Kenyon Law, and that prohibition is, by the great weight of authority, beyond the legislative power. (Com. *v.* Campbell, 133 Ky. 50, 19 Ann. Cas. 159 and note; Cortland *v.* Larson, 273 Ill. 602; compare In re Crane, 27 Idaho 671.) In the Kentucky case cited supra, it was said: "The right to use liquor for one's own comfort, if the use is without direct injury to the public, is one of the citizen's natural and inalienable rights, guaranteed to him by the constitution, and cannot be abridged as long as the absolute power of a majority is limited by our present constitution. The theory of our government is to allow the largest liberty to the individual commensurate with the public safety, or as it has been otherwise expressed, that government is best which governs the least. Under our institutions there is no room for that inquisitorial and protective spirit which seeks to regulate the conduct of men in matters in themselves indifferent, and to make them conform to a standard not of their own choosing, but the choosing of the lawgiver; that inquisitorial and protective spirit which seeks to prescribe what a man shall eat and wear, or drink, or think, thus crushing out individuality and insuring Chinese inertia by the enforcement of the use of the Chinese shoe in the matter of the private conduct of mankind."—Law Notes.